

TRANSCRIPT OF PROCEEDINGS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of:

ROBERT D. LANDIS

EB Docket No. 06-149

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FCC-ONLY RCD

DATE OF HEARING: OCTOBER 18, 2006 VOLUME: 1

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NEAL R. GROSS & CO., INC.
1323 RHODE ISLAND AVENUE, NW
WASHINGTON, D.C. 20005
TELEPHONE (202) 234-4433

BEFORE THE

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FEDERAL COMMUNICATIONS COMMISSION

+ + + + +

WASHINGTON, D.C. 20554

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In the Matter of:)
)
ROBERT D. LANDIS) EB Docket No. 06-149
)
Amateur Radio Operator) File No. EB-05-1H-0973
and Licensee of Amateur)
Radio Station N6FRV)

Hearing room A, TW-A363
445 12th Street, S.W.
Washington, D.C.

Wednesday,
October 18, 2006

The above-entitled matter came on for
hearing, pursuant to notice, at 9:30 a.m.

BEFORE: THE HONORABLE ARTHUR I. STEINBERG,
Administrative Law Judge

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WASHINGTON, D.C. 20005-3701

(202) 234-4433

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APPEARANCES:

On Behalf of the Commission:

ANJALI K. SINGH, ESQ.
JUDY LANCASTER, ESQ.

of: Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W.
Washington, D.C. 20554
(202) 418-2529
Fax: (202) 418-2080

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I-N-D-E-X

Start Time: 9:26 a.m.

End Time: 9:33 a.m.

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P-R-O-C-E-E-D-I-N-G-S

9:26 a.m.

JUDGE STEINBERG: This is a pre-hearing conference in EB Docket No. 06-149, by order to show cause DA06-1570, when we saw this first 2006, this case was designated for hearing on issues which seek to determine the effect of Robert D. Landis' felony convictions on his qualifications to be and to remain a Commission Licensee, and whether his amateur rating license should be revoked.

By Order FCC 06M-23, released August 7, 2006, I was appointed to preside over this proceeding, and a pre-hearing conference was scheduled for this morning.

Let me first take the appearances for the parties.

For Robert D. Landis? Let the record reflect no response.

For the Chief Enforcement Bureau?

MS. SINGH: Good morning, Your Honor, my name is Anjali K. Singh, and with me is Judy Lancaster, on behalf of the Enforcement Bureau.

JUDGE STEINBERG: Thank you. You don't have to stand up.

MS. SINGH: All right, thank you, Your

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1 Honor.

2 JUDGE STEINBERG: I appreciate the
3 courtesy, though.

4 Inasmuch as Mr. Landis is not here, I
5 prepared some comments.

6 Paragraph 7 of the Order to Show Cause,
7 pursuant to Section 1.91(c) of the Commission's rules,
8 required Mr. Landis to file a written appearance
9 stating that he will appear on the date fixed for
10 hearing and present evidence on the issues specified
11 in the Order to Show Cause.

12 Such notice was due to be filed within 30
13 days of the release of the OSC. Since the OSC was
14 released on August 1st, the written appearance was due
15 to be filed on or before August 31, 2006.

16 I have not received a copy of any written
17 appearance. Has the Bureau?

18 MS. SINGH: No, Your Honor. In fact, we
19 received a copy of a written document directed to the
20 Chief of the Enforcement Bureau, and not timely filed
21 before the Agency, and Counsel for the Enforcement
22 Bureau caused that document to be filed and copies to
23 be served on Your Honor. If you would extra copies at
24 this time, Your Honor?

25 JUDGE STEINBERG: No, no, that was my next

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1 paragraph that was I was going to. So, let me get
2 into my next paragraph.

3 By letter dated August 12, 2006, addressed
4 to the Commission's Enforcement Bureau, Mr. Landis
5 responded to the Order to Show Cause. Among other
6 things, Mr. Landis stated that he had served his
7 prison term and had completed his parole, and that he
8 had always obeyed Commission rules.

9 Mr. Landis also stated that he has been
10 committed to a state hospital for treatment related to
11 an unspecified mental disorder, and that he cannot
12 leave the hospital whenever he wants. Indeed, Mr.
13 Landis claimed that the hospital would not release him
14 to appear in person before an administrative law
15 judge.

16 Mr. Landis believed that a teleconference
17 was possible, but contended that he could not afford
18 an attorney, and, thus, would not have one unless he
19 can secure an attorney on a pro bono basis.

20 The Enforcement Bureau caused this letter
21 to be filed with the Office of the Secretary on August
22 31, 2006, and I received a copy of it shortly
23 thereafter.

24 On September 28, 2006, the Enforcement
25 Bureau filed a Motion to Terminate Proceeding in

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1 Certified Case to the Commission. Therein, the Bureau
2 correctly contends that Mr. Landis' letter was not
3 properly filed in accordance with the Commission's
4 rules, and that it does not -- and that it does not
5 constitute the written appearance required by the
6 Order to Show Cause, and the Commission's rules.

7 The rule requests that this proceeding be
8 terminated and the case be certified to the
9 Commission.

10 Early last week, I received a letter from
11 Mr. Samuel Landis, who stated that he was David
12 Landis' father. The letter was dated October 3, 2006.

13 For various reasons, Mr. Samuel Landis
14 urges the Commission not to cancel his son's license.
15 The presiding judge caused this letter to be filed
16 with the Office of the Secretary, and provided copies
17 to counsel for the Enforcement Bureau.

18 As noted earlier, Section 1.91(c) of the
19 Commission's rules, and paragraph 7 of the Order to
20 Show Cause, required Mr. Landis to file a written
21 appearance stating that he will appear at the hearing
22 and present evidence on the specified issues.

23 Pursuant to Paragraph 7 of the Order to
24 Show Cause, the written appearance was due to be filed
25 on or before August 31, 2006. No written appearance

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1 has been filed, and no one is here today on behalf of
2 Mr. Landis.

3 In the presiding judge's view, Mr. Landis,
4 Mr. Robert Landis' letter to the Enforcement Bureau
5 does not meet the requirements established for the
6 following written appearance. On the contrary, rather
7 than stating that he will appear and present evidence
8 at the hearing, Mr. Landis has specifically stated
9 that he will not appear because the hospital will not
10 release him to attend the hearing.

11 In this regard, the fact that he is
12 confined to a hospital is not controlling, since Mr.
13 Landis can appear and present evidence through legal
14 counsel. However, Mr. Landis, in his letter,
15 specifically stated that he will not retain an
16 attorney.

17 Given these conditions, and as suggested
18 by the Bureau in its Motion to Terminate, it appears
19 that Mr. Landis' letter should be viewed as the
20 written statement contemplated in Section 1.92(b) of
21 the Commission's rules. That section provides for the
22 submission of a written statement, signed by the
23 respondent, denying or seeking to mitigate or justify
24 the conduct contemplated in an Order to Show Cause.

25 Section 192(a)(1) of the Commission's

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1 rules, as well as Paragraph 8 of the Order to Show
2 Cause, provides that under the circumstances presented
3 here the failure to file the requisite notice of
4 appearance constitutes a waiver of the right to a
5 hearing. Consequently, pursuant to Section 1.92(c) of
6 the rules, and Paragraph 8 of the Order to Show Cause,
7 the presiding judge will grant the Bureau's Motion to
8 Terminate, and issue an order citing the events and
9 circumstances constituting the waiver of the hearing,
10 will terminate the hearing, and will certify the case
11 to the Commission.

12 Any comments on all that?

13 MS. SINGH: No thank you, Your Honor.

14 JUDGE STEINBERG: Okay. With that, I think
15 we will conclude the conference, and then I will get
16 an order out in the next few days certifying the
17 matter to the Commission terminating the hearing and
18 granting your motion.

19 Okay, let's go off the record now.

20 (Whereupon, the above-entitled matter was
21 concluded at 9:33 a.m.)
22
23
24
25

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FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC., ET AL.

Name of Hearing

EB DOCKET NO. 06-149

Docket No. (if applicable)

445 12th STREET, S.W., WASHINGTON, D.C.

Place of Hearing

OCTOBER 18, 2006

Date of Hearing

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 9, inclusive, are the true, accurate and complete transcript prepared from the reporting by John Mongoven (Reporter's Name) in attendance at the above identified hearing, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription statement of Work and have verified the accuracy of the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing or conference.

October 31, 2006

John Mongoven

Date

Legible Name and Signature of Reporter

Name of Company: Neal Gross Co.

October 31, 2006

Judy Hadley

Date

Legible Name and Signature of Transcriber

Name of Company: Neal Gross Co.

October 31, 2006

Nora Sullivan

Date

Legible Name and Signature of Proofreader

Name of Company: Neal Gross Co.